§ 40.140 On what basis does the MRO verify test results for 6-acetylmorphine (6–AM)?

As the MRO, you must proceed as follows when you receive a laboratory confirmed 6–AM test result:

(a) If the laboratory confirms the presence of 6–AM in the specimen and there is also any level of quantitation of morphine, you must verify the test result positive.

(b) When a laboratory 6–AM confirmed positive result is reported and morphine for that specimen is not reported at or above the 2000 per ng/mL confirmed positive cutoff, you must confer with the laboratory to determine if there was confirmed morphine below 2000 ng/mL.

(1) If there was confirmed morphine below 2000 ng/mL, you must verify the test result positive.

(2) If morphine was not confirmed below 2000 ng/mL, you and the laboratory must determine whether further testing is needed to quantify the amount of morphine present.

(c) If a laboratory finds detectable morphine at its LOD upon further testing, you must verify the test result positive.

(d) If a laboratory finds no detectable morphine at its LOD upon further testing, you and the laboratory must report that fact to the ODAPC immediately. Following your discussion with ODAPC, you will make a verified result determination.

[75 FR 49863, Aug. 16, 2010]

§ 40.141 How does the MRO obtain information for the verification decision?

As the MRO, you must do the following as you make the determinations needed for a verification decision:

(a) You must conduct a medical interview. You must review the employee's medical history and any other relevant biomedical factors presented to you by the employee. You may direct the employee to undergo further medical evaluation by you or another physician.

(b) If the employee asserts that the presence of a drug or drug metabolite in his or her specimen results from taking prescription medication, you must review and take all reasonable and necessary steps to verify the authenticity of all medical records the employee provides. You may contact the employee's physician or other relevant medical personnel for further information.

§ 40.143 [Reserved]

§ 40.145 On what basis does the MRO verify test results involving adulteration or substitution?

(a) As an MRO, when you receive a laboratory report that a specimen is adulterated or substituted, you must treat that report in the same way you treat the laboratory's report of a confirmed positive for a drug or drug metabolite.

(b) You must follow the same procedures used for verification of a confirmed positive test for a drug or drug metabolite (see §§ 40.129–40.135, 40.141, 40.151), except as otherwise provided in this section.

(c) In the verification interview, you must explain the laboratory findings to the employee and address technical questions or issues the employee may raise.

(d) You must offer the employee the opportunity to present a legitimate medical explanation for the laboratory findings with respect to presence of the adulterant in, or the creatinine and specific gravity findings for, the specimen.

(e) The employee has the burden of proof that there is a legitimate medical explanation.

(1) To meet this burden in the case of an adulterated specimen, the employee must demonstrate that the adulterant found by the laboratory entered the specimen through physiological means.

(2) To meet this burden in the case of a substituted specimen, the employee must demonstrate that he or she did produce or could have produced urine through physiological means, meeting the creatinine concentration criterion of less than 2 mg/dL and the specific gravity criteria of less than or equal to 1.0010 or greater than or equal to 1.0200 (see § 40.93(b)).

(3) The employee must present information meeting this burden at the time of the verification interview. As